

Remarks/Arguments

In the Office Action dated June 29, 2004 and identified as Paper No. N/A, the Examiner required restriction of the claims to one of the following distinct inventions: Species I (claims 1-6, 9 and 45-51); Species II (claims 7, 8, 16-17, 19-44, and 59-65), Special III (claims 52-58), and Species IV (claims 66-72). Claims 1-72 are pending in the application.

In response to the restriction requirement, Applicant provisionally elects Species I for prosecution on the merits. Claims 1-6, 9 and 45-51 are readable thereon.

The Examiner's restriction requirement is improper. According to the Examiner, the identified claim groupings are subject to a restriction requirement under MPEP § 805(d) because they involve subcombinations which are separately usable. This form of restriction requirement is not applicable here. According to MPEP § 805(d), however, restriction is only appropriate if two or more claimed subcombinations, *disclosed as usable together in a single combination*, are distinct from each other.

Applicant has not disclosed and claimed separate subcombinations which are usable in a single combination. Instead, Applicant has claimed the novel sloping and pivotal side panels in combination with four structures: a dump truck body (with or without a floor mounted conveyor) and a dump truck having a dump truck body (with or without a floor mounted conveyor). It is the same subcombination, *i.e.*, the sloping, pivotal panels, which is present in each of the recited combinations. Rather than disclosing multiple subcombinations in a single combination, Applicant has thus disclosed a single, patentable subcombination for use in various combinations. According to MPEP § 805(c)(II), a restriction requirement is not appropriate in these circumstances, as the subcombination is essential to the novelty of the recited combinations. Application has thus traversed the restriction requirement.

Reply to Office Action dated June 29, 2003
Application Serial No. 10/082,471
November 23, 2004


A petition for a four month extension and accompanying fee are enclosed herewith.

If the Examiner believes a phone conference with Applicant's attorney would expedite prosecution of this application, he is respectfully requested to contact the undersigned at (315) 218-8515.

Respectfully submitted,

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